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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Billing And Collection Services Provided By)
Local Exchange Carriers For Non-Subscribed)
Interexchange Services)

MCI Telecommunications Corporation)

Petition For Rulemaking)

DOCKET FILE COPY ORIGINAL

RM 9108

COMMENTS OF THE
INTERACTIVE SERVICES ASSOCIATION

The Interactive Services Association (ISA), by its attorneys and pursuant to 47 C.F.R. § 1.405, hereby submits these comments in support of the Petition for Rulemaking filed by MCI Telecommunications Corporation (MCI) on May 19, 1997,^{1/} urging the Commission to initiate a proceeding to craft a non-discrimination rule to govern local exchange carrier (LEC) provision of billing and collection services for non-subscribed interexchange services.^{2/}

The ISA is the leading trade association devoted exclusively to promoting consumer interactive services worldwide. The association has approximately 350 members representing the full spectrum of industries providing telecommunications-based interactive

^{1/} See Public Notice, MCI Telecommunications Corporation Files Petition For Rulemaking Regarding Local Exchange Company Requirements For Billing and Collection of Non-Subscribed Services ("Petition"), DA 97-1328 (released June 25, 1997).

^{2/} According to MCI, these "non-subscribed" services include 900 services, collect services, long distance service charged to certain calling cards and long distance service offered through 10XXX access. Petition at 1.

services to consumers. Many ISA members are actively involved in the interstate 900 pay-per-call industry, either as interexchange carriers (IXCs), LECs, service bureaus, information providers (IPs) or third-party billing entities. The ISA has played a leading role in both identifying the problems with the current LEC 900 billing and collection processes and proposing concrete solutions. For example, the ISA recently proposed numerous changes to the Federal Trade Commission's 900 billing and collection rules^{3/} and, in conjunction with the United States Office of Consumer Affairs, sponsored a series of roundtable discussions on this subject. The ISA applauds MCI for raising this critical billing and collection issue. The Commission should consider adopting a non-discrimination rule to govern LEC billing and collection in order to forestall the anticompetitive consequences identified by MCI in its Petition.

The ISA believes that the Commission's holding in the *Billing and Collection Detariffing Order*^{4/} supports adoption of the rule proposed by MCI. In that order, the Commission found that it had authority to regulate LEC provision of billing and collection services to IXCs under Title I of the Communications Act of 1934, as amended.^{5/} However, it declined to exercise this authority

^{3/} Among other things, the ISA asked the FTC to: (1) modify its consumer billing notice requirements; (2) enforce strictly its billing and collection requirements; and (3) confirm that an industry database can be utilized to block problem callers from accessing 900 number programs.

^{4/} *Detariffing of Billing and Collection Services*, 102 FCC 2d 1150 (1986).

^{5/} *Id.* ¶ 34.

because the record at that time showed that there was sufficient competition in the billing and collection market "to respond to excessive rates or unreasonable billing and collection practices on the part of exchange carriers"^{6/}

MCI provides compelling evidence in its Petition that competition does *not* exist in billing for 900 services and other "non-subscribed" services. As a practical matter, an IP offering 900 services has no meaningful and economically feasible alternative to LEC billing and collection.^{7/} For example, payment via credit card often is not a viable alternative because of the significant financial disincentives imposed on IPs. In addition, IPs that accept credit card payments generally must pay a fee for each credit transaction as well as a percentage of the total purchase price. These fees are not insubstantial and are particularly burdensome on IP's that offer low-priced services. In addition, not all consumers have credit cards.

MCI's proposed rule also is consistent with the broad non-discrimination safeguards of Section 272(c) of the Communications Act. The Commission has interpreted that Section to prohibit Bell Operating Companies (BOCs) from discriminating between their affiliates and non-affiliates in the provision of billing and collection

^{6/} Id. ¶ 37. According to the *Billing and Collection Detariffing Order*, "[t]he exercise of ancillary jurisdiction [under Title I] requires a record finding that such regulation would 'be directed at protecting or promoting a statutory purpose.'" Id. [footnote omitted].

^{7/} Third-party billing entities whose billing statements are inserted into LEC bills will likely face many of the problems identified by MCI in its Petition.

services for, among other things, information services.^{8/} The Commission concluded that sound public policy required this interpretation in order "to provide the BOC an incentive to provide efficient service to rivals of its . . . affiliate, by requiring that potential competitors do not receive less favorable prices or terms, or less advantageous services from the BOC than its separate affiliate receives."^{9/} Underlying the Section 272(c) safeguards was a concern that BOCs could use their existing market power to obtain an anticompetitive advantage in providing in-region inter-LATA information services. This same concern applies in the billing and collection context to non-BOCs which also have the ability to control the local exchange gateway.

The FCC should initiate the rulemaking proceeding requested by MCI and develop the necessary record to craft an appropriate non-discrimination rule. By doing so, the Commission ultimately will promote reasonable LEC billing practices and forestall damage to the 900 number market that may occur if LEC-provided billing and collection is no longer available.

Finally, MCI's Petition discusses competitive LECs (CLECs) which do not have billing and collection agreements with unaffiliated IXCs.^{10/} The ISA is concerned that some CLECs will not provide any billing and collection services for non-subscribed inter-exchange services including 900 service. In fact, some ISA members

^{8/} *Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934*, CC Docket No. 96-149, FCC 96-486 ¶ 217 (rel. Dec. 24, 1996).

^{9/} *Id.* ¶ 206.


^{10/} Petition at 10.

are aware of CLECs which are currently blocking access to 900 number services because they do not bill and collect for these services. As long as CLECs do not provide these billing and collection services, IXC's and IP's will lose vital access to subscribers. Accordingly, the ISA urges the Commission to consider whether these carriers should be required to provide billing and collection services for non-subscribed interexchange services.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Carol A. Smith, do hereby certify that a copy of the Interactive Services Association's comments responding to MCI's petition for rulemaking on Billing and Collection Services Provided by Local Exchange Carriers for Non-Subscribed Interexchange Services was sent, on this 25th day of July 1997, via first-class mail, postage prepaid, to the following:

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